

13701 PLM-II

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*[Shipment of Household Effects]*

FILE: B-196994

DATE: May 9, 1980

MATTER OF: Lieutenant Colonel Stanley M. Plies, USAF

- DIGEST:
1. The question whether and to what extent authorized weights have been exceeded in the shipment of household effects by members of the uniformed services is considered to be a matter primarily for administrative determination and ordinarily will not be questioned in the absence of evidence showing it to be clearly in error.
  2. Where items shipped as professional books, papers and equipment are determined by the Air Force after shipment not to qualify as professional material, the administrative determination will not be questioned by this Office without evidence showing the determination to be clearly erroneous.

The issues presented in this case upon an appeal of a settlement of our Claims Division are whether there has been a proper determination that authorized weights have been exceeded in the shipment of household effects and whether an administrative determination that certain items shipped as professional books, papers and equipment (PBP&E) do not qualify as professional materials was erroneous. In the absence of evidence showing the administrative determination as to weight shipped and classification of materials as not professional items to be clearly in error, the General Accounting Office will not question the administrative determination.

Lieutenant Colonel Stanley M. Plies, USAF, was transferred on a permanent change of station (PCS) from Clark Air Base (AB), Philippines, to Travis Air Force Base, California, by orders dated June 25, 1976. His household goods and unaccompanied baggage were shipped from the Philippines at the end of July 1976 and apparently arrived at destination in late August 1976. Colonel Plies was originally

112273

~~010239~~

B-196994

billed for \$381.24 for excess weight of 600 pounds over the Administrative Weight Limitations. Upon Colonel Plies' challenge of the excess weight charge, a review was made by the Air Force of the items shipped and it was determined by the Air Force that certain items shipped as PBP&E did not qualify as PBP&E as specified in Appendix J, Volume 1, Joint Travel Regulations (1 JTR). These items had been accepted by the transportation office at Clark AB as PBP&E and included the following items:

1. Filing Cabinet
2. Sansui Speakers
3. Tape Deck
4. Elmo Projector
5. AM-FM Radio
6. Kobena Typewriter
7. Slide Tray

After disallowing these items as PBP&E, Colonel Plies' indebtedness was increased to \$695.13. Colonel Plies has questioned the authority of the Air Force to make an after-the-fact disallowance of his PBP&E. He also contends that since the disallowed items were used professionally by him they should be classified as PBP&E and that the Government should be held responsible for the negligent and erroneous acts of its officers, agents or employees if an error was made in accepting these items as PBP&E at Clark AB. Further he contends that had he known they would not be accepted as professional items he could and would have shipped them himself at lower cost.

Section 406 of title 37, United States Code, provides for the transportation of household effects of members of the uniformed services to and from such places and within such weight allowances as may be prescribed by the Secretaries concerned. Implementing regulations are contained in Chapter 8, 1 JTR. Paragraph M8003-2 of 1 JTR in effect at the time the member transported his effects (change 278, April 1, 1976) provided for administrative weight restrictions for members shipping household effects incident to PCS orders to or from overseas stations. Additionally, the prescribed allowance for interior packing materials as authorized by paragraph M8002-1, 1 JTR (change 278),

B-196994

is 10 percent of the gross weight of such shipment. Paragraph M8007-2, 1 JTR (change 279, May 1, 1976) provides that weight which exceeds the amount prescribed by regulation will be transported at the member's expense.

Paragraph M8004 of 1 JTR provides that a member may ship PBP&E required in the performance of his official duties upon change of station without charge against his weight allowance. Professional books, papers and equipment are described in Appendix J of 1 JTR as follows:

"PROFESSIONAL BOOKS, PAPERS, AND EQUIPMENT--

Includes but is not restricted to the following items in the member's possession when required by him in the performance of his official duties:

- "1. reference material;
- "2. instruments, tools, and equipment peculiar to technicians, mechanics, and members of the professions;
- "3. specialized clothing such as diving suits, astronauts' suits, flying suits and helmets, band uniforms, chaplains' vestments, and other specialized apparel not considered to be normal or usual uniform or clothing;
- "4. communication equipment used by members in association with the Military Affiliate Radio System (MARS); and
- "5. individually owned or specially issued field clothing and equipment.

"Except incident to separation, relief from active duty, or retirement, when it cannot be established that the professional books,

papers, and equipment involved are for use in the performance of official duties at the next or a subsequent destination, they will be considered to be a part of the member's household goods weight allowance. The term 'professional books, papers, and equipment' does not include sports equipment or office, household, or shop fixtures or furniture (such as bookcases, study desks, file cabinets, and racks) of any kind even though used in connection with the professional books, papers, and equipment."

The question of whether and to what extent authorized weights have been exceeded in the shipment of household effects, and whether or not particular items may be classified as professional material necessary in the performance of a member's duty are considered to be matters primarily for administrative determination, and we ordinarily do not question an administrative determination in that regard in the absence of evidence showing it to be clearly in error. See B-171877.03, December 15, 1978; B-190687, March 22, 1978; B-190099, March 14, 1978; B-190541, November 28, 1977; B-189575, November 4, 1977.

In view of the Air Force's official determination that the items submitted for shipment were not PBP&E necessary in the performance of his official duties, Colonel Plies' assertion to the contrary is not sufficient for us to accept as a proper basis for his claim for shipment of those items at Government expense. Also, in the absence of some evidence showing clearly that the Air Force computations on the weights shipped and charges for excess weight were in error, Colonel Plies' questioning of the accuracy of those computations may not be accepted as proper basis for allowing his claim.

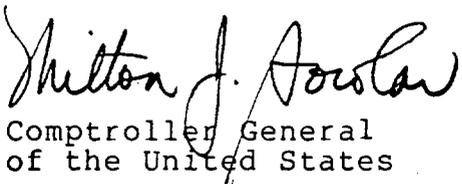
Colonel Plies contends, that had he been fully informed that the items in question could not be shipped as PBP&E he would have shipped them at less cost on his own. While it is unfortunate that he may not have been fully aware or may have been misinformed about the erroneous designation of such items, that factor affords no basis to permit him to

B-196994

ship at Government cost items which the Air Force determined do not qualify as PBP&E. Compare B-190687 and B-190541. It has been a longstanding rule of law supported by decisions of this Office and the courts that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or regulations, and this is so even though the agent may have been unaware of the limitations on his authority. See German Bank v. United States, 148 U.S. 573, 579 (1893); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384 (1947); 53 Comp. Gen. 11, 15 (1973); and 54 Comp. Gen. 747, 749 (1975). Thus, in the present case even though the transportation office at Clark AB may have accepted the items in question as PBP&E, the United States is not estopped to deny this unauthorized or misleading representation, commitment or act because those who deal with a Government agent, office or employee are deemed to have notice of limitations on his authority.

Accordingly, in view of all the facts presented in this case, the evidence submitted by the claimant does not show that the administrative determination made by the Air Force was erroneous. Therefore, there is no basis upon which to allow his claim and the action of the Claims Division disallowing the claim is sustained.

For the

  
Comptroller General  
of the United States